DECEMBER 5, 1946

Town Meeting

BULLETIN OF AMERICA'S TOWN MEETING OF THE AIR

BROADCAST BY STATIONS OF THE AMERICAN BROADCASTING CO.

Should the Wagner Labor Relations Act Be Revised?

Moderator, **GEORGE V. DENNY, JR.**

Speakers

WILLIAM K. JACKSON **FRANK FENTON**

Interrogators

HENRY HAZLITT **HENRY WISE**

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COMING

——December 12, 1946——

Is Radio Operating in the Public Interest?

——December 19, 1946——

Is World Disarmament Possible Now?

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THE BROADCAST OF DECEMBER 5:

"Should the Wagner Labor Relations Act Be Revised?"

THE BROADCAST OF DECEMBER 12:

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Town Meeting

BULLETIN OF AMERICA'S TOWN MEETING OF THE AIR

GEORGE V. DENNY, JR., MODERATOR

DECEMBER 5, 1946 VOLUME 12, No. 32

Should the Wagner Labor Relations Act Be Revised?

Announcer:

Welcome, friends, to historic Town Hall in New York City, the home of America's Town Meeting of the Air, for another lively session on America's Number One Problem, how to deal with labor-management disputes.

Tonight we consider the question, "Should the Wagner Labor Relations Act Be Revised?" To preside over our discussion here is our founder and moderator, the president of Town Hall, New York—Mr. George V. Denny, Jr. Mr. Denny. *(Applause.)*

Moderator Denny:

Good evening, neighbors. Few people in America today are not greatly concerned over the state of our labor-management relations. Our coal strike, which not only threatens to tie up our own national economy, is causing world-wide concern. Unless we can work out a less drastic and dangerous way of dealing with labor-management disputes, our American economic and political system is in grave peril. Responsible leaders of labor and management are aware of this, and are striving to find ways and means of resolving these disputes short of economic warfare.

Tonight we have with us two distinguished leaders in the field of labor and management as our principal speakers, and two eminently qualified authorities on the subject as interrogators. Mr. William K. Jackson, president of the United States Chamber of Commerce, and Vice President of the United Fruit Company, believes that the Wagner Labor Relations Act should be revised. Mr. Frank Fenton, director of organization of the American Federation of Labor, believes that it should not.

I'm going to begin by asking Mr. Fenton to tell us in simple, nonlegalistic language just what the Wagner Labor Relations Act is, and I'm going to ask Mr. Jackson

to tell us in just what respects he thinks it should be revised. Then we'll hear the arguments on both sides. Mr. Fenton, just what is this much-discussed national labor relations act known as the Wagner Act? Mr. Fenton.

Mr. Fenton:

The aim of this act is to diminish industrial conflicts in this limited area of labor-management relationships. It guarantees employees the right of self-organization and the right to be represented by unions of their own choosing. It makes it a duty of employers to engage in collective bargaining with the agency chosen under the provisions of the Act. It provides a board to hold elections and determine the agency to be chosen by the employees and to prevent employers from engaging in unfair labor practices which seek to interfere.

Moderator Denny:

Thank you, Mr. Fenton. Now Mr. Jackson, in just what particular respects are you going to propose that this act should be revised? Mr. Jackson.

Mr. Jackson:

Basic changes must be made in the law. They include, first, provisions creating unfair labor practices by employees, just as unfair labor practices by employers are specified.

Two, provisions imposing prohibitions and penalties against labor unions that carry on unfair labor practices.

Three, removal of the authorization of the closed shop. The right to work must not be interfered with.

Four, safeguarding the Constitutional right of free speech and many other particulars of the law must be revised in the light of eleven years of experience to bring it up to date with current needs.

For example, one, an employer should have the right to petition for an election.

Two, a labor union should bargain in good faith just as an employer is required to do under the present law.

Three, jurisdictional disputes between unions should be settled without resort to stoppages of production.

Four, foremen should be recognized as managers under the law. The Labor Relations Board should not be both prosecutor and judge, and their findings of fact should be subject to review by the courts.

Moderator Denny:

Thank you, Mr. Jackson. And now that we know what the Act is and what changes you propose, we are ready to hear the arguments. So, Mr. Jackson, will you tell us why you propose these changes? Ladies and gentlemen, Mr. William K. Jackson, President of the United States Chamber of Commerce. *(Applause.)*

Mr. Jackson:

The principle of collective bargaining as such is not in dispute

tonight. Mr. Fenton, this principle has generally been accepted by management everywhere. If there are extremists who would turn back the clock of history in this respect, they are no more representative then extremists in the labor camp.

The question, and the only question to my mind, is how to make collective bargaining as fair, as effective, as amicable as possible. It is my contention that the Wagner Act as it now stands fails to accomplish this purpose. On the contrary, because it stacks the cards against management, because it subjects one side to obligations and penalties from which the other side is immune, the law obstructs real collective bargaining.

The Wagner Act describes the rules of the game for collective bargaining. At the time it was written 11 years ago, it was assumed that labor was the weaker party, that it was underprivileged and in need of special legal protection. Whatever truth there may have been in the theory of labor's relative helplessness at the time the law was enacted, it no longer holds good. I ask you if John L. Lewis is weak today?

Let's face the fact that in the intervening decade the picture has changed. It has changed so fundamentally that the Wagner Act, class-angled and therefore unjust to begin with, has been turned into an act which is out of date and a monument to injustice in group relationships. *(Applause.)*

The trade unions have swelled their membership to some fourteen millions. They possess immense financial resources and great political leverage and have outgrown their old role of exploited underdog.

In the light of recent events, in the coal industry for instance, the pretense that organized labor is a social infant needing special care, feeding, and coddling, is pretty ludicrous. It is generally known that some of these gains in membership have not always been without the use of coercion, threats, and force.

No game can be played today, or should be played, under rules that do not apply equally to both teams. A football match in which one team was allowed off-side play, clipping, and roughness, while the other was penalized for such practices, would hardly be sportsmanlike. More important, the game itself in the end would be destroyed.

The same thing holds true for collective bargaining. Unless the laws are revised to give both sides the same rights and obligations, to make both sides equally accountable for their behavior, the principle of collective bargaining is in jeopardy.

Those who consider economic warfare desirable, the advocates of class struggle—and I'm not talking

about Mr. Fenton and Mr. Wise—may find laws weighted against employers to their taste. The rest of us, labor and management alike, look on free economy as a co-operative process. We want to strengthen that process by making it just, sportsmanlike, and effective.

Let me cite some elements of unfairness as a guide to revisions which should be made.

When a union is engaged in organizing a plant, it can ask the Labor Relations Board to hold an election. But what if a labor leader claims that his union represents a majority of the workers of the plant when in fact it does not? Can management have recourse to the Board and ask for an election? Not at all. It is utterly helpless while the union pickets the plant, calls for a strike, even though the union speaks only for a handful.

I submit that this situation is intolerable. The employer obviously should be given the right to make a good-faith application for an election.

Consider a second illustration. When the union submits demands for wage increases, longer vacations, or welfare funds, if you please, the employer is required to negotiate in good faith. But if the employer makes a proposal, no matter what it is, union is under no corresponding obligation. The union can, and often does, ignore the proposal.

When it serves the union's purpose, it can resort to endless delaying tactics. There are plenty of instances in which unions have presented demands with the assertion that they're not subject to discussion on a take-it-or-leave-it basis. You've heard of that in the last few days.

Not infrequently they have pulled strikes before management has had a chance to study or reply to the demands. That happened in the coal strike. In short, the obligation under the present Wagner Act to bargain applies to only one party. The employer must bargain. The union may reject or block a bargain. I submit that a basic change to end this harmful disbalance is in order.

Then there is another matter of jurisdictional disputes in which the employer finds himself in the middle without any hope of help from the Wagner Act. Suppose he wants to install new equipment. The union that is certified for collective bargaining purposes may be willing and able to do the work. But along comes another union claiming the right to do the work.

Production is tied up indefinitely while the competing unions fight it out. There isn't a thing the employer can do. I submit that the Wagner Act must be amended to give management a fair break under such indefensible conditions.

Now take another thing—the problem of foremen and other su-

pervisory employees. No one questions the right of these groups to act jointly in asking for wage increases or improved conditions, but we cannot evade the fact that the supervisory personnel are part and parcel of the management setup.

Under the Wagner Act, unions are not merely permitted but are encouraged to undermine the employer's position by organizing locals of foremen in the same overall union with the workers whom they supervise. The foreman or supervisor, being human, finds it impossible to be equally loyal to management and to the union at the same time.

Let's turn for a minute to the matter of penalties for disobeying the law. As far as employers are concerned, the penalties are direct and effective. The Board's orders, unless upset by the courts, are mandatory, but there are, unfortunately, no similar compulsions on labor. Employees and their representatives can commit no illegal act under this law.

It is being paid for by hundreds of thousands of lost manhours. The law should be revised to make labor responsible and accountable for its actions. The Wagner Act must accept a large contribution to the creation of the monopolies —labor monopolies today—which are so terribly threatening the country.

Collective bargaining is an accepted procedure. All that I ask, all that the nation asks, all that business asks is that the Act be made fair, balanced, and free of all monopolistic practices on labor's part, no less than on the part of management. Unless and until the Wagner Act is revised along these lines, we shall not have genuine collective bargaining. *(Applause.)*

Moderator Denny:

Thank you, Mr. Jackson. Now, Mr. Fenton, why do you think the Wagner Labor Relations Act should not be revised? Mr. Frank Fenton, director of organization of the American Federation of Labor. Mr. Fenton. *(Applause.)*

Mr. Fenton:

I disagree with Mr. Jackson's statement that collective bargaining is an accepted procedure by American industry. His assertion paints an unreal picture. The October, 1946, records of the National Labor Relations Board discloses that there have been more unfair labor practice charges filed than in any comparable month in the past seven and one-half years. This would appear that the employer extremists he mentioned are launching a genuine attack on collective bargaining.

The emphasis of the Wagner Act is not on compulsion of the government, but rather on co-operation of management and labor in industry. The initiative is exer-

cised not by government but by industry itself. Employers may discriminate unfairly through unwise disciplinary actions, by arbitrary discharges, through favoritism, in promotions and transfers, by paying inadequate wages, by not providing fair working conditions, or through overworking or other mistreatment, without being guilty of one unfair labor charge under the provisions of the Act. Only such actions which tend to punish workers for union activities or to discourage membership in labor unions are considered in violation of the Act.

My purpose tonight is to show how unjustified Mr. Jackson's proposals are, how deceptive are the pleas of some anti-union employers who are bent upon destroying this equitable and fair legislation.

Mr. Jackson, I ask you and your associates to look at the record. Before the enactment of this law, most strikes were called because of the refusal of employers to recognize unions at all. They did not want collective bargaining. Over 14,000,000 workers are enjoying a degree of collective bargaining. Can anyone doubt the great benefit that has inured to all workers, irrespective of whether they are organized or unorganized? Can anyone doubt that this is a great contribution to democracy—both social and industrial? It has raised the standard of living in all of America.

Since its inception, the National Labor Relations Board has handled 48,000 cases involving 11,000,000 workers. About 8,000,000 have cast secret ballots in elections to determine bargaining representatives. It is inconceivable but true that the Board's records disclose that employers were charged with the commission of unfair labor practices in 41,000 cases.

It is my contention, Mr. Jackson, that this act as it now stands, helps to reduce strikes. The record proves it. Since 1937, when the Supreme Court upheld the constitutionality of the Act against the combined attack of Liberty League lawyers, organizational strikes have steadily decreased. In 1937 they accounted for 76 per cent of the strike idleness of that year. In 1945 they accounted for only 29 per cent of strike idleness.

I am tired of listening to people blaming strikes since V-J Day upon the Wagner Act. We all know the causes were rising living costs, the loss of take-home pay, and accumulated grievances of both labor and management, plus the desire to end wartime restraints upon freedom of action, and many other factors.

We must, however, take time to answer those who would want to kill the Act because they claim it is one-sided and that it confers rights upon the workers and imposes only duties upon the employers. For over a century the

workers have had to struggle to compel employers to recognize their legal right to organize and to bargain with union for wages, hours, and conditions of employment. In spite of the legality of the right to organize, workers who dared to join unions were discharged with impunity; blacklisting was national in scope.

Judges held strikes to be illegal, to be criminal conspiracies, and sent thousands of honorable labor leaders to jail. A later generation of judges exercised the iniquitous *ex parte* injunction to shamelessly place the weight of government in the industrial struggle on the side of large corporations and was known as government by injunction. Until the advent of the Wagner Act, the law was heavily weighted in favor of property rights against human rights.

It was this shocking condition of inequality that the National Labor Relations Act was designed to correct. The Act, therefore, was one-sided in the sense that it favored collective representation rather than the myth of individual bargaining between corporations and workers. It is one-sided in the sense that it must curb one party in the interest of justice. It is one-sided in that it protects the employees to engage in collective action.

In the name of equalizing the obligations under the Act, most proposals come from persons who have always opposed the principles of the Wagner Act. Legislation that in a little more than a decade has so profoundly altered the nature of industrial relationship, substituting the ballot box for the conference table and conference table for industrial strife and espionage, should not be tampered with lightly.

This is not to say that we should resist all or any original thinking, nor call a halt to the evolution of national labor policies, but let us make certain that the relationship between management and labor is strengthened and not weakened in the process. *(Applause.)*

Moderator Denny:

Thank you, Mr. Fenton. And now we are going to hear from two outstanding authorities in the field of labor relations who will quiz both of these gentlemen. First, Mr. Henry Hazlitt, economist, author, and columnist for the magazine *Newsweek*. Mr. Hazlitt. *(Applause.)*

Mr. Hazlitt: Mr. Jackson has spoken for management. Mr. Fenton has spoken for organized labor. But the Wagner Act must ultimately be judged not by the way in which it affects either the employer or the union leader, but by the way in which it affects the public. And judging by that standard, the revisions I would propose for the Wagner Act agree sub-

stantially with those of Mr. Jackson.

I agree with him that the law should allow management as well as union leaders to ask for a bargaining election. I agree that if employers are to be obliged to bargain in good faith, unions should be held to the same requirement.

But more than anything else, I am concerned with the freedom of the individual worker. He should be free either to join or not to join a union without coercion or intimidation, either from employers or from unions. *(Applause.)*

Yet the Wagner Act leaves the individual worker completely to the mercies of union organizers. The Wagner Act turns the government into a union organizing agency. It encourages strikes, in effect, by preventing the employer from discharging men on strike. It makes it impossible for him to hire permanent workers to carry on in place of the strikers.

John L. Lewis pulled a coal strike in 1927. He pulled another in 1932. He lost both strikes. He was forced to order his locals back to work for the best terms that they could get. By his own recklessness, he virtually destroyed the United Mine Workers.

Then came the Wagner Act. It put that union back on its feet. Eventually it gave that union something it had never had before —complete control of all coal mining in the United States. Now, in view of that record, I should like to ask Mr. Fenton whether he will not frankly admit that it is primarily because of the Wagner Act that John L. Lewis has been holding the entire nation by the throat today. *(Applause.)*

Mr. Fenton: That kind of argument is the kind of argument of the anti-union employer *(applause)*, because John Lewis today is not before the National Labor Relations Board. He doesn't need the assistance of the National Labor Relations Board. The National Labor Relations Board is made for weak unions who need the encouragement of government so that they can survive. *(Applause.)*

Mr. Hazlitt: I don't consider that that question was answered, but I have a chance to ask another question at this moment. I'd like to ask Mr. Fenton one more question.

In the eight years before the passage of the Wagner Act in 1935, there was an average of a thousand strikes a year. In the ten years since the passage of the Wagner Act—and that doesn't include a single strike since V-J Day —there has been an average of more than 3,000 strikes a year. In the face of that record, how can Mr. Fenton say that the Wagner Act has helped to reduce strikes? *(Applause.)*

Mr. Denny: Mr. Fenton.

Mr. Fenton: In my opening remarks, I challenged that by the record of the National Labor Relations Board and told you that the difference between 1937 and today was 29 per cent. But what have strikes to do with the National Labor Relations Board? *(Murmurs in audience.)* Most of these organizations that are on strike do not have to go to the National Labor Relations Board. They have been organized for years, and they are self-sufficient by themselves without any assistance from the National Labor Relations Board. There isn't one thing in the National Labor Relations Act that refers to unions of any kind. *(Applause.)*

Mr. Denny: Thank you. Mr. Hazlitt, I'm going to let you in on the discussion as soon as we've heard from our second interrogator. Thank you very much. And, now, it's time to hear from Mr. Henry Wise, who will give an analysis from a somewhat different point of view. Mr. Wise is a distinguished Boston attorney, and a professional arbitrator in the field of labor-management relations in the State of Massachusetts. Mr. Wise. *(Applause.)*

Mr. Wise: Some eminent industrialists, recognizing that creation of a sound labor relationship is today our most urgent domestic problem, have declared that the policies of industrial harmony and joint adjustment of disputes must become the first concern of industry, and that such policies in the ranking of business values must even precede concern about production and financial policies.

Mr. Jackson, if I do not misunderstand you, this view does not speak for the major part of American industry. Evidently this portion of industry still prefers to assign to labor relations a secondary role. Your description of collective bargaining—the major resource of labor unions for achievement of just division of our national income—as a game is testimony that for industry in general employee problems only call for attention after the demands upon management of production and financial situations are first satisfied.

Evidently labor relations rank as a kind of leisure-time activity in the management workday. The existence, after 11 years of the Wagner Act, of this attitude of mind—that collective bargaining is still a game—provides the clue why the Wagner Act should not be revised. It also gives the clue why the right to strike, as specifically guaranteed by the Act, should not be impaired.

Your suggestions for revision speak to a distress and fear about the developing growth of trade union power. Your suggestions point to a plan to weaken the power of labor. Principally, they aim to deprive unions of strike

ability—the mechanism helpful to break through artful dodging and other insincerities frequently resorted to in the game of collective bargaining.

In the beguiling language of equality and balancing of duties, you suggest an amendment imposing a duty on unions to bargain collectively. This impractical operation seeks to delay and otherwise limit the power to strike.

Mr. Denny: Could you make that next one a question, Mr. Wise?

Mr. Wise: Yes. Now, Mr. Jackson, in view of the fact that, in general, I believe your entire series of suggestions are means to weaken the power of labor, I would like to ask you this question: In view of the fine record of labor-management co-operation during the war and the great know-how of management which made the United States the arsenal of the world then, and the foremost world power now, why does management prefer to resort to increased government intervention for the control of labor relations, rather than to nurture its know-how for better collective bargaining? *(Applause.)*

Mr. Denny: Thank you. Mr. Jackson.

Mr. Jackson: Mr. Wise, I'm glad to have your question, because you couldn't have stated a question that more inaccurately presents my views. *(Applause.)*

In the first place, labor today is a Number One Item with management. In everything I've said, in every talk I've made since I've been President of the Chamber of Commerce, I've said that the Number One American Problem today is to find how to get management and labor together on an equal basis. *(Applause.)* I don't want to kill the Wagner Act, I want to make it so that management can meet labor at the conference table on equality. *(Heavy applause.)*

I don't want management to have to go to the table deaf and dumb and with their legs shackled and no restriction or limitation whatsoever upon labor. *(Applause and dissents.)*

Mr. Denny: Mr. Wise, another question? Or, this is a good time to comment, if you want to comment and start your discussion now on what Mr. Jackson has said.

Mr. Wise: I'll go ahead with another question. In view of the fine record—oh, pardon me, I'm rereading here—perhaps I don't feel the question has been answered either. *(Laughter and applause.)*

Mr. Jackson, you seem to suggest that the penalty provisions of the Wagner Act should condition labor's enjoyment of rights upon its observance of an amended Wagner Act. Does this mean that any violation by labor of a contract or other duty will strip it of its right to maintain its organization and its right to compel an

employer to engage in collective bargaining?

Mr. Denny: Mr. Jackson.

Mr. Jackson: It doesn't mean anything of the kind, Mr. Wise. You know that as well as I do. In the first place, labor today has no restrictions whatsoever on it. They don't have to bargain collectively. They don't have to carry out their contracts. There are no penalties on them, whatsoever.

Now, if you're going to meet somebody at the bargaining table, ought you not to be on an equal basis, ought you not to be able to go together and understand that if I do the wrong thing, I'll be penalized, and if you do the wrong thing, you'll be penalized? *(Applause.)* That's all I ask for. I'm not anti-labor, I don't want to restrict labor. I want labor to grow stronger and stronger and stronger, and let the country get better. *(Applause and some dissents.)*

Mr. Denny: Mr. Wise.

Mr. Wise: Well, that pleases me to hear that declaration that he wants labor to get stronger. I'm a little bit curious, though, why he wants to restrict its power to strike by amendments that in effect strip labor of that power. Now he says that only management suffers penalties. I don't know what they are, other than a compulsion to sit down around the bargaining table; and secondly, a duty to pay wages and to install reinstatement if an employee is unjustly discharged by reason of prosecution of his unionism rights. As far as labor is concerned, in penalties, obviously, this example Mr. Jackson has been insisting upon—the present coal strike—I suspect that you'd consider $3,000,000 somewhat of a penalty.

Secondly, by reason of injunctions and the history of jail sentences, and other difficulties which Mr. Fenton, with more elaboration, brought to your attention, I would say the entire history of labor has been one of sufferance of penalties, whereas employers, very fortunately, have been making more and more money *(applause)*, which I understand labor is to seek to divide, of course, and I think that's the fair thing. And I say I'm very glad to know Mr. Jackson wants to speak for those who care to sit down around the table and with Mr. Fenton and his cohorts and divide the money. *(Applause.)*

Mr. Denny: Mr. Hazlitt.

Mr. Hazlitt: Mr. Wise and Mr. Fenton have talked a good deal, but they haven't answered one simple question. What objection would they have to making the law ask for labor to bargain collectively as well as employers? They've never stated that. We all know that Mr. Lewis refuses to state his terms most of the time; that he comes in and he calls the mine owners thieves and murderers. They have to keep on

bargaining with him. He walks out, and he stamps out, and nothing can be done. What objection have they to making the Wagner Act insist that if the employer is going to be forced to bargain collectively, then the labor union leader also ought to be forced to bargain collectively? *(Applause.)*

Mr. Denny: Mr. Fenton, will you reply to that, please?

Mr. Fenton: The question again does not come within—they seem to be harping on the question of the miner and the National Labor Relations Board. The miner never went even before the National Labor Relations Board for an election; they organized by themselves. But in answer to the question, if you read the papers, Mr. Lewis has been trying to bargain for about two months with the Government or to get the employers to accept their responsibility and bargain so that he could get fair conditions for the workers that spend *(applause and dissent)* —just a minute—the miners at the present time are working 54 hours a week. That means that when they are working steadily that they do not see the sunshine except on Sunday, and I think that that is a question that is of vital importance to these men, and if any of you have had experience, if you want to find what real misery is, either

THE SPEAKERS' COLUMN

WILLIAM KENNETH JACKSON—Mr. Jackson, an attorney and now president of the United States Chamber of Commerce, was born in Denver, Tennessee, in 1886. He has an A.B. degree from the University of Florida and an LL.B. from the University of Virginia. In 1905, Mr. Jackson was recording clerk of the Florida House of Representatives. In 1908 he was admitted to the Florida bar and started his practice of law in Jacksonville.

In 1909, Mr. Jackson went to Panama as assistant prosecuting attorney of the Canal Zone and assistant attorney for the Isthmian Canal Commission and the Panama Railroad Company. From 1910 to 1914, he was prosecuting attorney for the Canal Zone, and in 1914 and 1915 was U.S. District Attorney of the Canal Zone. During World War I, Mr. Jackson was a captain in the Chemical Warfare Service of the U. S. Army.

Mr. Jackson is vice president, general counsel and director of the United Fruit Company. He has been vice president of the U. S. Chamber of Commerce and is now its president.

FRANK FENTON—Mr. Fenton is Director of Organization for the American Federation of Labor.

HENRY HAZLITT—Mr. Hazlitt, editor and author, was born in Philadelphia on November 28, 1894. (Happy Birthday, Mr. Hazlitt.) He attended the College of the City of New York. From 1913 to 1916, he was a member of the staff of the Wall Street Journal. Then for two years, he was on the financial staff of the *New York Evening Post.* For another year, he wrote the monthly financial letter of the Mechanics and Metals National Bank in New York City. Then followed jobs on the *New York Evening Mail,* the *New York Herald,* and *The Sun.* From 1930 to 1933, he was literary editor of *The Nation.* The next year he was editor of the *American Mercury.* In 1934, he went to the *New York Times* and now he is a columnist for *Newsweek.* Mr. Hazlitt is the author of several books, including the recent best seller, *Economics in One Lesson.*

HENRY WISE—Mr. Wise is an attorney and an arbitrator appointed by the State of Massachusetts.

go down in the mines or go out to the mining village and I think you'll find that these men have a just and honorable complaint and they are entitled to their demands. *(Applause.)*

Mr. Denny: Thank you, Mr. Fenton. I feel that this representative Town Hall audience is really ready with their questions and are eagerly sitting on the edges of their seats. You have just about time to take a cool refreshing drink—of water, that is—while we pause for station identification.

Announcer: You are listening to America's Town Meeting of the Air coming to you from Town Hall in New York City where we are discussing the subject, "Should the Wagner Labor Relations Act Be Revised?" For your convenience, a complete copy of tonight's discussion is printed in a small, pocket-size pamphlet you may receive by sending your request together with ten cents to Town Hall, New York 18, New York. If you would like to have these Town Meeting Bulletins come to you regularly each week, enclose $1 for 11 weeks, or $2.35 for six months. Print your name and address clearly and allow two weeks for delivery. And here is our moderator, Mr. Denny.

Mr. Denny: And now before we take the questions from this audience, Mr. Hazlitt has a comment that he wants to make on what Mr. Fenton said just a moment ago.

Mr. Hazlitt: I should like to comment on Mr. Fenton's statement that the miners today work a 54-hour week. Actually, the figures of the Department of Labor show that they work an average of 42 hours a week, and on that average they get pay of $62 a week, which is the highest pay of any industrial workers, exceeding the automobile workers and all other groups. They have the permission to work 54 hours a week and when they work that they can get $75 a week. *(Applause.)*

Mr. Denny: Mr. Fenton.

Mr. Fenton: I'd like to ask this question from Mr. Hazlitt. In view of the fact that he wants some kind of compulsory government control over workers who strike, I would like to ask him what kind of control would he suggest to put on the strikes of business. The businessmen of this country, it was common knowledge, struck against the OPA, which was the law of the land. *(Applause.)* The meat cattlemen, and I was out through that cattle country, withheld from the market—from the American people—the right to eat meat. Now I'm not suggesting a remedy of compulsion. I think that's the cost of democracy, and what I'm urging here tonight is that instead of law let management and labor sincerely sit around a conference table, enter into collective agreements that have arbitration, cooling-off, and a settlement of grievances, and let us settle it like men in a democratic way without coercion from government. *(Applause.)*

Mr. Denny: Mr. Hazlitt.

Mr. Hazlitt: Mr. Fenton began by completely misstating my position, I do not urge any limitation on strikes at all. All I urge is the right to work. I urge that the strikers be prevented from preventing other people from working. *(Applause.)* And it is a rather odd thing. I don't think there was any strike of the meat dealers. As a matter of fact, individually they withheld—*(cries of no.)* As a matter of fact, it was the meat raisers who withheld—they might have done it, but if a strike was so wicked on their part, why is it so virtuous on the part of labor? Let Mr. Fenton answer that one.

Mr. Denny: Mr. Wise has a comment before we get to the questions.

Mr. Wise: I'm a little bit curious about Mr. Jackson and Mr. Hazlitt's conception of equality. As I understand modern corporate society, and that is the dominant

thing of this present system, prior to unionization, management has a bundle of powers. It has the right to determine production, the right to determine finance. It has the right to determine labor policy. Along comes the Wagner Act and one division of that triplicate description becomes subject to a sharing. Labor now for the first time can participate with management in the determination of labor conditions. But management still has the other powers and those are the determining powers as to whether labor gets a decent wage or not. *(Applause.)*

Now to compensate for those two powers which management has reserved to itself, I say that you cannot have equality merely by literary description, because literary parallelism does not respond to the actual economic circumstances of the two parties. And I therefore say that you should retain the Wagner Act, as is, until you can put labor into the position of actual equality and economic power, identical with what management today possesses. *(Applause.)*

Mr. Denny: Thank you, Mr. Wise. Now speaking of money—and who isn't?—how would you like to win a $25 United States Savings Bond? You can do it if you limit your question to 25 words and if our committee of judges considers it the best for the purpose of bringing out facts and broadening the scope of this discussion. But remember, your question must be limited to 25 words. We'll start with the soldier on the right. Yes, sir?

Man: I should like to ask Mr. Fenton, if he refuses to change the law, how is he going to get the unions to the bargain table to arbitrate and prevent these crippling nationwide strikes?

Mr. Denny: Mr. Fenton?

Mr. Fenton: The largest unions and some of the finest unions in this country, by the process of genuine, sincere, collective bargaining, haven't had strikes—some of them for fifty years, many of them for twenty-five and thirty-five years. I don't think that you must have a law to make people be good. I think what we need is to accept the spirit of this Act, and this Act has nothing to do with any of these problems of strikes at all.

This Act simply ensures the right of the worker to collective bargaining and to choose a representative of his own choosing to represent him, and most of these problems that have been talked about here tonight come subsequent to the Act. The Act is simply to guarantee the weak unions—because the strong unions don't need it—the weak unions, people who desire the liberty of forming their own organization—to form it without interference by the employer. *(Applause.)*

Mr. Denny: Thank you. We've got Mr. Hazlitt on his feet here. Mr. Hazlitt.

Mr. Hazlitt: Well, Mr. Fenton keeps dodging the question of the individual worker. The individual worker is protected by the Wagner Act from coercion on the part of the employer, but he can be beaten up and almost anything else by union organizers and the Wagner Act doesn't say a thing about it. Now, why shouldn't we have an act on that subject? *(Applause.)*

Mr. Denny: Mr. Wise.

Mr. Wise: Of course, Mr. Hazlitt knows there is a criminal law still existing in all the states *(laughter and applause)* and there's been no hesitation in the past on the part of management to identify itself as the benefactor of the hurt employee, and they can still keep it up. Now, why worry about violence? You've got your criminal law. Now what other kind of coercion is bothering him? The mere fact that gentlemen in a factory exchange emotional discussions in the way, in a sense, we do—I'm not intimidating this gentleman and I am responsive to his arguments. Now, that to me is not intimidation. That's hot political discussion and hot economic discussion, and not coercion; and if a man can't stand up to it, then he's not a man. *(Applause.)*

Mr. Denny: Thank you. Another comment, Mr. Hazlitt?

Mr. Hazlitt: Well, to pretend that physical coercion doesn't exist is going pretty far, and to pretend that the states are handling it rightly is also going pretty far. But why does the Wagner Act interfere on one side and not on the other for the federal law? We know that under the Wagner Act a union can be a known set of racketeers and yet the employer is obliged under the Wagner Act to deal with those racketeers. He has no choice and the National Labor Relations Board is obliged by the law to be blind to the fact that they are racketeers. *(Applause.)*

Mr. Denny: Thank you. Mr. Fenton.

Mr. Fenton: Well, I have some very good evidence of employer racketeers. I didn't want to bring that in here, but I think if you read the La Follette reports, you will find that cultured, refined, large businessmen in this country had an arsenal of munitions to beat down the workers that had the courage to organize *(applause),* and I personally have been threatened by Bergoff, and Nate Cohen, and all of the groups of industrial spies, and I think that the labor record is much cleaner than that record. *(Applause.)*

Mr. Denny: Now a question from that gentleman over there.

Man: Mr. Jackson. In your opening remarks, in one of your amendments, you proposed the right that work should not be interferred, do you mean, Mr. Jackson, that . . . *(words indisinguishable).*

Mr. Jackson: I didn't say that work shouldn't be interferred with, and I don't believe in anything that you suggest there, and I haven't directly or indirectly suggested that.

Mr. Denny: Thank you, that's right. That's one of the things we have to ask you people who ask questions not to do—put words in the mouths of the speakers of either side. If you have a question, ask your question, and make it a direct question—not try to interpose or interpret what the speaker has said. Now, let's have another question for Mr. Jackson from this lady here. No, the lady who has a question for Mr. Jackson.

Lady: I am a teacher. To protect the public interests, should not the ambiguous phrase, "right to bargain," be clarified to indicate specifically the bargaining procedure to be followed?

Mr. Denny: Mr. Jackson, do you get the meaning of that?

Mr. Jackson: I'm afraid I don't quite understand what the witness intends to suggest.

Lady: Should not the phrase, "right to bargain," be clarified to make specific the provisions by which bargaining can be done?

Mr. Jackson: I think it's a bit difficult to put into a law the terms by which or the manner by which procedures of bargaining shall take place. I think that ought to be left to the parties themselves, and if they acted in good faith—they are required to act in good faith and bargain collectively—I don't think it would take the parties long to work out the bargaining method. I doubt the propriety of writing that into a law.

Man: I'd like to ask Mr. Wise, please. Mr. Wise, from a legal point of view, if this Wagner Act is so good and should be continued, why not go ahead progressively? Encourage the organization of foremen's unions. Let's have a treasurers' union, vice presidents' union, directors' union! *(Laughter and applause.)*

Mr. Denny: Mr. Wise?

Mr. Wise: Well, you raised the old problem of degree. I don't believe that a director or a vice president is in the role of a person working for wages or one taking orders from any executive. He more or less makes his own policies, sometimes not to the benefit of the stockholders and many times not for the benefit of employees. Now, foremen *do* work for wages. Their job as a channel of communication of instructions for management, while it has an in-

tellectual content, is still a hard day-to-day job whereby he works under orders. He still has wages and other conditions to worry about, and to assure those to be of a good character, I see no difference in his protection than in the ordinary workingman's. As you know, in the building construction, printing, maritime, and on the railroads, foremen, both by reason of self-organization and by approval of law are organized into unions. There's no question of disloyalty.

Mr. Denny: Thank you. The gentleman over here.

Man: Mr. Fenton.

Mr. Denny: Mr. Fenton.

Man: I'm an engineer and executive in the clothing industry. Can you tell me how the Wagner Act copes with the problem of jurisdictional disputes between labor unions such as occurred in the maritime industry?

Mr. Denny: Mr. Fenton, how does the Wagner Act deal with jurisdictional disputes such as those that occurred in the maritime industry. That's right. That's for you.

Mr. Fenton: The Wagner Act does not deal except in a limited form with jurisdiction questions. They do where both parties agree to present the matter before them. They do work out a policy of deciding by election which group will represent the parties. But there's nothing in the act that handles jurisdictional disputes.

Mr. Denny: Thank you, Mr. Fenton. Mr. Hazlitt?

Mr. Hazlitt: But Mr. Fenton doesn't seem to explain why there's nothing in the Act that handles jurisdictional disputes. Out in Hollywood a few hundred men are tying up the whole motion picture industry and nothing in the Wagner Act can do anything about it. *(Applause.)*

Mr. Denny: Thank you. The young man here.

Man: I'm a student. I'd like to ask a question of Mr. Hazlitt. Since you want a non-closed shop, would you give union and non-union employees the same benefits and why? *(Laughter.)*

Mr. Denny: Mr. Hazlitt, I'm afraid we're getting out of the range of the Wagner Act, but would you like to comment on that?

Mr. Hazlitt: Well, I'd like to comment on this. I'd like to comment on the complete inconsistency of the Wagner Act in first providing that an employer shall neither encourage nor discourage, by discrimination of any kind, membership in a labor union. And after they do all that, then they say that nothing in this act shall bar the closed shop. Well, what that really means is that if you're not a member of that labor union you can't be employed, so it's completely out of line with

the whole ostensible aim of the Wagner Act.

Mr. Denny: Now here, Mr. Fenton.

Mr. Fenton: In the first place, the Wagner Act does not mention union at all. It simply gives to the workers the right to choose a representative of their own choosing. *(Applause.)*

Mr. Denny: Thank you. The gentleman in the balcony in the brown suit. I noticed a few hisses around the hall. Will you please remember that there's only one kind of animal that hisses? Not a very pleasant animal. Let's cut that out.

Man: I'm a business agent for a labor union. *(Laughter.)* There has been mention by yourself, Mr. Jackson, and Mr. Hazlitt, about a lack of any provision in the Act which forces labor unions to bargain collectively. Does that mean, Mr. Jackson, that you believe or wish to imply that labor unions desire to call their people out on strikes and then sit there without bargaining while the men have no income, no chance to get back on the jobs, no chance to do anything except sit and say, "We don't want to bargain collectively?"

Mr. Jackson: I agree with you that doesn't make any sense, and yet that's what some labor leaders are doing. Exactly what they're doing. *(Applause.)*

Mr. Denny: Thank you. The young man down here. Yes?

Man: I'm an engineer. Mr. Fenton says that the Wagner Act is primarily for the benefit of the weaker unions. How does he propose to prevent strong unions from abusing the privileges they enjoy under this Act? *(Applause.)*

Mr. Denny: Mr. Fenton.

Mr. Fenton: Why, the strong unions don't enjoy any privileges of the Act. Most of the strong unions were formed and developed a long while before there was an Act. Now, if there are any abuses, of course they ought to be corrected—but I think that most of the strong unions take care of themselves without the Act. What I honestly believe is that instead of talking abount amendments and law and compulsion—this is said very sincerely—I think American employers—organized employers—ought to sit down with organized labor and try to work out a code of fair practice between themselves instead of this hysteria of "crush labor."

Mr. Denny: Thank you, Mr. Fenton. Now while you and Mr. Jackson prepare your summaries for tonight's discussion, here is Gene Kirby to tell us about some Town Meeting programs to come.

Mr. Kirby: As we told you last week, we've lined up four outstanding programs for the month of December. Next week, the long awaited discussion of radio itself

will originate in Greenwich, Connecticut, in the Greenwich High School auditorium, where the program will be under the auspices of the Greenwich Community Forum.

Our topic is taken from the wording of the present radio law, "Is Radio Operating in the Public Interest?" Our speakers will be Frederick L. Wakeman, author of *The Hucksters;* Mr. Clifford J. Durr, Commissioner of the Federal Communications Commission; Mr. Sydney Kaye, general counsel for Broadcast Music, Inc.; and Mr. Mark Woods, president of the American Broadcasting Company.

On December 19, General William J. Donovan, former director of the O.S.S., and Mr. Norman Thomas, Socialist leader, will discuss the question, "Is World Disarmament Possible Now?" Two veterans of World War II will be our special interrogators: Mr. Tex McCrary and Mr. Millard Lampell.

On December 26, the day after Christmas, your Town Meeting will be in Schenectady for its annual television program. The subject will be, "Would You Rather Live in a Small Town or a Big City?" Our principal speakers will be Mr. Charles Jackson, author of *Lost Week End;* and Granville Hicks, author of the new book, *Small Town.* As our interrogators we'll have Tex McCrary and Jinx Falkenberg. So make your plans now to be with us every Thursday night for the rest of December. Now here's our moderator again. Mr. Denny.

Mr. Denny: And now here's Mr. Fenton with his final word on tonight's subject.

Mr. Fenton: The Wagner Act, stripped of all the verbiage and veneer of those who attack it, simply protects the right of self-organization. It has nothing to do with the process of collective bargaining except to assure the right that it must take place. The Wagner Act is designed to protect and encourage collective bargaining in the same sense that marriage laws are designed to protect and encourage the institution of the family. But happy labor relations are no more guaranteed by the Wagner Act than happy domestic relations are guaranteed by the laws of government.

The sooner industry learns to engage in genuine collective bargaining, the sooner we will have industrial peace. For a trade union agreement is a device that has within its four corners, if sincerely entered into by both parties, provisions that contain the cooling-off periods, settlement of grievance, and mutual arbitration. All things that Congress seeks to do by compulsive legislation can be accomplished at the conference table. I warn industry that if labor is regimented so will industry be regimented. *(Applause.)*

Mr. Denny: Thank you, Mr. Fenton. And now a final word from Mr. William K. Jackson.

Mr. Jackson: The Wagner Act has not decreased the number of strikes. On the contrary, it has increased the prevalence of strikes. Never in the history of the labor movement have there been so many destructive strikes as during the past year. In order to cover up the deficiencies of the Wagner Act, Mr. Fenton has resorted to the enumeration of the past sins of some employers which are not pertinent to the present consideration of the defects in the Wagner Law. He admits the one-sidedness of the Wagner Act but is unwilling to correct its obvious inequities.

The Wagner Act should be revised to penalize unfair labor practices by employees and to remove the authorization of the closed shop. The law must give the right to the employer to petition for an election; require unions to bargain collectively and in good faith. It must outlaw jurisdictional disputes; recognize foremen as a part of management; and the right of the underprivileged to work; the right of any individual to work and join a union or not as he sees fit. The Board must not be both prosecutor and judge, and the findings of fact must be subject to review by the courts. *(Applause.)*

Mr. Denny: Thank you, Mr. Jackson, Mr. Fenton, Mr. Hazlitt and Mr. Wise. I know that our speakers will welcome your opinions on tonight's discussion. So please send your comments to Town Hall, New York 18, New York. Our committee of judges has just informed me that their prize goes to Mr. William W. Dunn, 912 Fifth Ave., New York, N.Y., the army officer who asked the first question. Congratulations, Mr. Dunn. *(Applause.)*

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